

Attorney Docket No. 35706.3  
Customer No. 000027683

#### **IV. REMARKS**

Claims 21, 22, 27, 29, 31, 33, 38, 40, 44, 45, 49, 51, 53, 55, 59, 73 and 74 are amended. Claims 25, 26, 37, 47, 48 and 72 are cancelled herein. Thus, claims 21 – 24, 27 – 36, 38 – 46, 49 – 71 and 73 – 75 are now pending.

No new matter is added by the amendments presented herein. Consideration of claims 21 – 75 in light of the following remarks is respectfully requested.

##### **A. Information**

Applicant's Petition to Accept an Unintentionally Delayed Priority Claim filed in the subject application on September 13, 2004 has been GRANTED. Applicant respectfully requests that the Examiner confirm that the subject application is entitled to the priority date of U.S. Provisional Patent Application No. 60/403,997, filed August 17, 2002.

Further, Applicant wishes to make the Examiner aware that a Request to Correct Inventorship, and accompanying documents, were filed in the subject application on February 17, 2005. Applicant is currently awaiting the correction sought in the Request.

##### **B. Response to Office Action**

Applicant's immediately prior filed response (which was filed March 2, 2005) is alleged to be not fully responsive to the Office Action dated July 12, 2004. The basis for the allegation is that claims 21 – 75 are drawn to an invention that is patentably distinct from that originally elected and examined. Applicant thanks the Examiner for discussing this issue in a phone conversation with Applicant's attorney on June 22, 2005.

Claim 21 has been amended to recite an apparatus comprising a foundation located below a roadway surface and a housing secured to the foundation. A bollard having a plate disposed therein is reciprocatingly received within the housing. A spring is reciprocatingly received within the bollard, and secured at a proximal end to the plate. A cylinder is received at least in part within the spring. A piston shaft is reciprocatingly received within the cylinder, which piston shaft is secured at a proximal end to the plate. A piston terminates a distal end of the piston shaft, and divides the cylinder into an upper chamber and a lower chamber.

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The apparatus recited in claim 21 further includes a flow line, a valve system, and circuitry. The circuitry is connected to the valve system, and is operable to simultaneously or sequentially operate the valve system so as to selectively connect the flow line for operation on the lower chamber and the upper chamber. Operation on the upper chamber and the lower chamber causes reciprocation of the spring between compressed and extended positions, which compression and extension of the spring causes reciprocating of the bollard between retracted and extended positions.

Claim 44 has been amended to recite a method that includes providing a foundation below a roadway surface, and securing a housing to the foundation. The method of claim 44 further includes reciprocatingly placing a bollard within the housing, disposing a plate within the bollard, reciprocatingly placing a spring within the bollard, and securing a proximal end of the spring to the plate. The method of claim 44 further includes placing a cylinder at least in part within the spring, reciprocatingly placing a piston shaft within the cylinder, and securing the piston shaft at a proximal end to the plate. The method of claim 44 further includes providing a piston at a distal end of the piston shaft, which piston divides the cylinder into an upper chamber and a lower chamber.

The method of claim 44 further includes providing a flow line, providing a valve system, and operably connecting circuitry to the valve system to simultaneously or sequentially operate the valve system so as to selectively connect the flow line for operation on the lower chamber and the upper chamber, which operation on the upper chamber and the lower chamber causes reciprocation of the spring between compressed and extended positions, which compression and extension of the spring causes reciprocating of the bollard between retracted and extended positions.

In view of the foregoing, Applicant respectfully requests that the allegation of non-responsive be withdrawn.

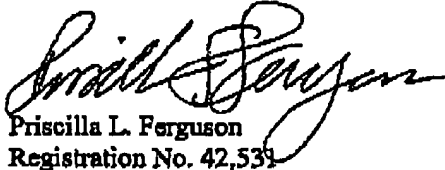
#### **CONCLUSION**

Claims 21 – 24, 27 – 36, 38 – 46, 49 – 71 and 73 – 75 are now pending in the present application. In view of the foregoing, allowance of all pending claims is respectfully requested.

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The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

  
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Dated: June 28, 2005  
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